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UNCLAS SECTION 01 OF 02 BOGOTA 011901

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E.O. 12958: N/A
TAGS: ECON ECPS ETRD CO
SUBJECT: COLOMBIA: SECTION 1377 TELECOM TRADE AGREEMENTS REVIEW

REF: SECSTATE 218756

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¶1. (SBU) Summary. Avantel, a U.S. affiliated telecommunications company in Colombia, continues to assert that Colombia has not been in compliance with its telecommunications trade agreements. According to Avantel, Colombia has not offered complete and fair access to and use of public telecommunications transport networks and services set forth in the WTO Basic Telecommunications Agreement. Avantel maintains that noncompliance arises from the refusal of other mobile operators to offer interconnection with Avantel's trunking network and the government regulator's inability to enforce existing decrees requiring interconnection.

¶2. (SBU) Avantel is the only U.S. affiliated telecommunications company remaining in Colombia. Avantel provides a digital trunked radio wireless telecommunications network (using technology similar to that of Nextel in the United States). Avantel President Carlos Marino told econoff that the company has 107,000 subscribers in Colombia and that 300 accounts represent 50 percent of their business here. Avantel customers include the President,s office, the Colombian military and national police, the U.S. embassy, and other corporate clients. Customers seek the more secure mobile communications offered by Avantel,s trunking service.

¶3. (SBU) Avantel asserts its business and competitive position has been harmed by the anti-competitive practices of Colombian mobile phone operators and GOC reluctance to enforce regulations on interconnectivity and numeration. From 2000-2004, the Ministry of Communications and the Telecommunications Regulatory Commission (CRT) did not require other Colombian mobile operators to provide interconnection services to Avantel although this was required by Colombia,s Law 555 of 2000 according to Avantel officials. Law 555 specifically states, &every telecommunications operator will allow the interconnection of its network and access to their essential installations to any other telecommunications operator who may so request it.

¶4. (SBU) Decree 4239 issued in December 2004 appeared to resolve the interconnection and numbering issue but Avantel has had great difficulty in obtaining effective implementation from the government and cooperation from its competitors. While Avantel has received a unique prefix for the telephone numbers it assigns customers, Avantel efforts to negotiate license fees since the new degree have been rejected by the other mobile operators who refuse to recognize their obligation to provide interconnection. Avantel officials reported they would file an official complaint with CRT the week of December 19, 2005 to request that interconnection regulations be enforced. However, CRT officials have already informed Avantel that a ruling will take 2-8 months, further delaying interconnection access.

¶5. (SBU) Avantel argues that mobile operators are delaying cooperation in the hope that Avantel market share will continue to decrease. Since Avantel cannot connect directly with the mobile operators, Avantel pays for a fixed line service that then provides the connection to the mobile operators. Avantel pays about 43 cents per minute for the service while the average fee for other operators is 8 cents per minute. Avantel's market share has decreased from 5 percent in 2000 to about one percent now. Moreover, Avantel maintains regulatory delays have caused it to miss out on a rapidly expanding customer base and has left it with a network that is 60 percent under-utilized according to Avantel President Marino.

¶6. (U) In general, other significant barriers to entry include high license fees (USD 150 million for a long distance license fee), cross subsidies, the requirement for a commercial presence in Colombia and economic means tests. CRT may require an economic needs test for the approval of licenses in voice, fax, e-mail, and other value-added services. The parameters that determine an economic means test are not established clearly in Colombia. CRT also

maintains a system of crossed subsidies where long-distance telephony subsidizes local telephony. Low (subsidized prices of local telephony and high restrictive costs in the provision of long-distance telephony limit the entry of new competitors. Colombia also prohibits &callback8 services and excludes fixed and mobile satellite systems.

¶7. (SBU) As reported in 2004, CRT continues to have difficulty establishing independence from influence by the Ministry of Communications. Interconnection and trunk access policies and guidelines are not formulated and applied transparently by the regulatory authority because the Ministry interferes in the policy process. MOC influence over CRT creates a perception of non-transparency in the telecommunications sector, which further limits competition for the provision of local, long distance, and mobile services. CRT officials told econoff that they have sufficient independence from the MOC and that the Ministry relies on them for technical review of proposed regulations and dispute resolution. However, Avantel officials question CRT independence and stated that delays in CRT decision-making are attributable to MOC influence.
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